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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

**IN RE GOOGLE PLAY STORE  
ANTITRUST LITIGATION**

THIS DOCUMENT RELATES TO:

*Epic Games, Inc. v. Google LLC et al.*,  
Case No. 3:20-cv-05671-JD

Case No. 3:20-cv-05671-JD  
Case No. 3:21-md-02981-JD

**PLAINTIFF EPIC GAMES, INC.'S  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER ANOTHER  
PARTY'S MATERIALS SHOULD BE  
SEALED**

1 Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Epic Games, Inc. (“Epic”) hereby  
 2 moves the Court to issue an administrative order on the filing under seal of certain portions of  
 3 Epic’s Notice of Motion and Motion for a Preliminary Injunction (“Epic’s Motion”), the  
 4 Declaration of Steven Tadelis (“Tadelis Declaration”), and the Declaration of Lauren A.  
 5 Moskowitz (“Moskowitz Declaration”) along with its accompanying exhibits (“Exhibits”).  
 6 Public redacted versions of Epic’s Motion, the Tadelis Declaration, the Moskowitz Declaration  
 7 and its Exhibits have been filed in accordance with this Court’s Local Rules.

8 Subsection (f) of Civil Local Rule 79-5 sets forth procedures that apply when a party (the  
 9 “Filing Party”) seeks to file information designated as confidential by another party or non-party  
 10 (the “Designating Party”). Under subsection (f)(1), the Filing Party’s Administrative Motion to  
 11 Consider Whether Another Party’s Material Should Be Sealed “must identify each document or  
 12 portions thereof for which sealing is sought”. Pursuant to subsection (f)(3) of Local Rule 79-5,  
 13 the Designating Party then has seven days to file a declaration establishing that all of the  
 14 designated material is “sealable” according to the standards set out in subsection (c)(1), after  
 15 which any party may respond within four days, pursuant to subsection (f)(4). Civil Local Rule  
 16 79-5 provides that documents, or portions thereof, may be sealed if a party makes “a specific  
 17 statement of the applicable legal standard and the reasons for keeping a document under seal,  
 18 including an explanation of (i) the legitimate private or public interests that warrant sealing;  
 19 (ii) the injury that will result if sealing is denied; and (iii) why a less restrictive alternative to  
 20 sealing is not sufficient”. Civ. L.R. 79-5(c)(1). A request to seal all or part of a motion for a  
 21 preliminary injunction must meet the “compelling reasons” standard, where that motion is “more  
 22 than tangentially related to the merits of the case”. *Ctr. for Auto Safety v. Chrysler Grp., LLC*,  
 23 809 F.3d 1092, 1097, 1102 (9th Cir. 2016) (remanding to lower court to apply “compelling  
 24 reasons” standard in evaluating party’s request to seal preliminary injunction motion). Under the  
 25 compelling reasons standard, “[t]he mere fact that the production of records may lead to a  
 26 litigant’s embarrassment, incrimination, or exposure to further litigation will not, without more,  
 27 compel the court to seal its records”. *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172,  
 28

1 1179 (9th Cir. 2006). Moreover, “[t]he fact that the parties may have designated a document as  
2 confidential under a stipulated protective order is also not enough to justify sealing.” *In re*  
3 *Google Play Store Antitrust Litig.*, 2021 WL 4190165, at \*1 (N.D. Cal. Aug. 25, 2021).

4 Epic’s Motion, the Tadelis Declaration, the Moskowitz Declaration and its Exhibits  
5 contain information that is sourced from documents that Defendants Google LLC, Google  
6 Ireland Limited, Google Commerce Limited, Google Asia Pacific Pte. Limited, and Google  
7 Payment Corp. (collectively, “Google”) have designated as “CONFIDENTIAL”, “HIGHLY  
8 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”, or “NON-PARTY HIGHLY  
9 CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” under the operative Protective Orders  
10 entered by the Court, Case No. 3:21-md-02981-JD, ECF Nos. 123, 154 and 170 (“Protective  
11 Orders”). Epic’s Motion, the Tadelis Declaration, the Moskowitz Declaration and its Exhibits  
12 also contain information that is sourced from documents that non-parties Activision Blizzard,  
13 Inc., Amazon.com, Inc., and Samsung Electronics America, Inc. have designated as “NON-  
14 PARTY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” pursuant to the  
15 Protective Orders. Those portions are identified in the Declaration of Yonatan Even submitted  
16 herewith and highlighted in the under seal version of Epic’s Motion, the Tadelis Declaration, the  
17 Moskowitz Declaration and its Exhibits.

1 Dated: April 28, 2022

2  
3 Respectfully submitted,

4  
5 By: 

Lauren A. Moskowitz

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